

FILING YOUR LAWSUIT IN FEDERAL COURT



This document is provided by the Clerk's Office to assist parties in properly filing a lawsuit in this Court. Litigants are encouraged to review it thoroughly. This document is NOT to be considered legal advice, nor should it be cited as legal authority. It is subject to exception and modification. This document should be used in conjunction with the federal rules and Local Rules of this Court.

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The Different Kinds of Courts

You may be aware that there are both federal courts and state courts.

In Michigan, state courts are divided by county, and enforce state and municipal laws. Each Michigan county has a County Circuit Court, which decides issues brought under the laws of this State. That includes family disputes, probate, broken contracts, and matters brought under the State Constitution. Also, every city has a District Court, which decides municipal matters (traffic tickets, landlord-tenant, zoning, etc.)

Although Michigan state courts must enforce the federal Constitution and laws, most of the cases they decide involve the Constitution and laws of the state.

Federal courts are established by the U.S. government to decide disputes concerning the federal Constitution and laws passed by Congress. Our state has two federal courts, the Eastern District of Michigan and the Western District of Michigan. The Eastern District covers the eastern half of the lower peninsula. The Western District covers the rest of the state.

What kinds of cases are filed in U.S. District Court?

There are three types of cases filed in U.S. District Courts:

1. Cases where the United States government is a party.

Lawsuits for social security or veterans benefits are among those that would be filed in a federal court. Also, cases against any federal agency, like the Postal Service or Internal Revenue Service.

2. Cases brought under federal statutes.

The U.S. District Court is limited to hearing the specific types of cases described in the Constitution or specifically provided for by Congress. Federal laws can cover issues not addressed by state laws, such as interstate commerce, damages at sea, labor laws, environmental matters, agriculture, certain tax matters and many other laws. Also, federal laws can duplicate state laws, such as in civil rights protections.

3. Cases where the parties reside in different states.

These types of matters are called “diversity cases.” In a diversity case, if you live in Michigan and you are suing someone in another state, the judge will decide which U.S. District Court is most appropriate to hear your case. This is called the “venue.” In deciding the proper venue, the judge will consider where the case was filed, where the majority of the parties are located, where the witnesses reside, where the actual damage was done and other issues. A rule of thumb is that the case will be heard at the Court closest to the defendant. But the judge has a lot of latitude.

Diversity cases must claim a minimum of \$75,000 in damages. If your case doesn’t claim that much, you’ll need to file it in state court.

Before you file, please consider:

Rule 11 of the Federal Rules of Civil Procedure prohibits the filing of lawsuits that are clearly frivolous or filed just to harass someone.

If the court determines that you have filed a lawsuit for an improper or unnecessary reason, it may impose sanctions against you, including ordering that you pay any legal fees of the party that you sued.

Should I file in State Court or Federal Court?

If you are suing someone based on a violation of a federal statute, for example the Americans with Disabilities Act, you would file your case in U.S. District Court.

However, state laws and federal laws sometimes overlap each other. For example, Michigan's Elliott-Larsen Civil Rights Act offers protections to citizens similar to federal civil rights statutes. In other words, you can file a civil rights case in either federal court or Michigan state court. To choose which court would be best, you need to look at other things:

- Where will the jury come from?
- How long will it take for your case to get to trial?
- What are the fees involved in each court?

In State court, your jury will be picked from citizens residing in the county where the case was filed. In federal court, the jury will be selected from a pool of people who reside throughout the eastern half of the lower peninsula. Also, the typical U.S. District Court case takes about a year to litigate. Michigan's state courts have different timelines. It may be worth your time to do some research.

ATTORNEYS

You have the right to represent yourself. You do not have to have an attorney.

If you are representing yourself, the Court may show you some extra consideration. The judge will still expect you to state your case clearly, to make all your deadlines, and follow our filing procedures.

If you can afford to hire your own attorney, but don't know of any, you might consider contacting the **Detroit Bar Association's Referral Service**. That program will tell you which Bar Association members practice the type of law that you need help with. The number to the Detroit Bar Association is **313-961-3545**.

Where can I do legal research?

Wayne State University, the University of Michigan, and the University of Detroit-Mercy Law School libraries are open to the public, although they will not let you check out material unless you are a student.

Some college libraries have law-related collections, including Henry Ford, Oakland and Macomb Community Colleges; Oakland and Madonna Universities and Walsh College. These collections are not as extensive as you would find at a law school library.

The public libraries in Dearborn, Detroit, Farmington, Flint, Southfield, and Port Huron maintain law-related collections, too.

Will the Court appoint a lawyer to represent me?

If you would like an attorney, and cannot afford to hire one, the Court may appoint an attorney to represent you. To ask the Court to appoint a lawyer, please fill out an **Application for Appointment of Counsel** form, available in the Clerk's Office.

The Judge bases the decision to appoint an attorney on two items: your financial situation and the merits of your case.

Where can I get free legal advice?

If you cannot afford an attorney, but need legal advice, there are a number of agencies that may be able to help you:

Free Legal Aid Clinic, Inc. (Serves only Wayne County)	313-967-5555
Immigration Legal Services/Archdiocese of Detroit English & Spanish Arabic or Chaldean	313-237-4694
Lakeshore Legal Aid Port Huron Office Caro Office	810-985-5107 989-673-5651
Legal Hotline for Michigan Seniors	517-485-9164
Legal Services of Eastern Michigan Genesee County Office Midland County Office Saginaw County Office	800-339-9513 800-322-9142 800-322-4512
Legal Services of South Central Michigan Ann Arbor Office Jackson Office Monroe/Lenawee Office Livingston /Shiawassee Office	 734-665-6181 517-787-6111 888-251-1598 800-968-0044
Salvation Army Legal Aid Clinic (Serves Wayne, Oakland and Macomb Counties)	313-361-6340
State Bar of Michigan Lawyer Referral Service (For counties with no local referral service program)	800-968-0738
University of Detroit-Mercy Urban Law Clinic	313-596-0262
University of Michigan Law School Clinic	734-763-4319
Wayne County Neighborhood Legal Services Detroit Office	313-874-5497
Wayne State University Law School (Serves Wayne County)	313-577-3970

How do I file a lawsuit?

If you have decided to file your lawsuit in U.S. District Court, you will need to file a **complaint** in the Clerk's Office.

What is the filing fee? Can it be waived?

The fee to file a complaint is \$350.00. There are no other fees involved.

If you do not have the \$350.00, you may apply to have the fee waived. Ask the Clerk for an **Application to Proceed In Forma Pauperis**.

What is a complaint?

The complaint is a document telling the judge who you are suing, what your case is about and what you want the court to do about it. You may write your own complaint, or use a form available in the Clerk's Office.

Make your complaint clear and understandable. This is the time to go into as much detail as you can. Don't be overly brief, and expect to tell the Judge the details of your case later. Do it now. *Your case can be dismissed if you do not go into sufficient detail. The Judge **has** to understand what your issues are.*

Along with the **complaint**, you will need to fill out some other forms:

- 1) A **Civil Cover Sheet**, a form that asks some statistical information about your case. Directions for filling out a Civil Cover Sheet are on page 6.
- 2) A **summons**, a form that lets people know that you are suing them. Directions for filling out a summons are on page 7.

The above forms ***must*** be filed with any lawsuit. Some additional, voluntary forms are:

- 3) An **Application to Proceed In Forma Pauperis**, if you are unable to pay the \$350.00 filing fee, and
- 4) An **Application for Appointment of Counsel**, if you wish the court to appoint a lawyer to represent you.

All of these forms are available in the Clerk's Office, or online at <http://www.mied.uscourts.gov>.

When your paperwork is completely filled out, file it with the Clerk's Office.

When you're ready to file your complaint

When you have your paperwork ready, please come to the Clerk's Office on the 5th Floor of the Theodore Levin U.S. Courthouse in Detroit. (Or, if more convenient, you may file at our offices in Ann Arbor, Flint, or Bay City.)

U.S. District Court offices:

231 W. Lafayette
5th Floor
Detroit, MI 48226
(313) 234-5005

200 E. Liberty
Room 120
Ann Arbor, MI 48107
(734) 741-2380

1000 Washington Avenue
Room 304, P.O. Box 913
Bay City, MI 48707
(989) 894-8800

600 Church Street
Room 140
Flint, MI 48502
(810) 341-7840

What happens when I come to the Clerk's Office?

When you come to the Clerk's Office, you will need to bring the following:

- 2 **civil cover sheets**,
- 2 **summonses** for each defendant,
- 2 **complaints** *PLUS* 1 copy for each defendant (So, if you are suing two people, you would need four copies, total)
- The \$350.00 filing fee unless you are asking the court to waive the filing fee. If so, you will need 2 **Applications to Proceed In Forma Pauperis.**)

Additionally, if you are asking the court to appoint a lawyer to represent you, you will need 2 **Applications for Appointment of Counsel.**

The clerk assisting you will review your paperwork to make sure we have everything we need. He or she will make sure that all of the questions have been answered on the forms and that you have enough copies. If everything is in order, and you are paying the filing fee, the clerk will:

- file-stamp your documents,
- assign a case number and judge,
- sign your summons forms, and
- write you a receipt for the \$350 filing fee

If you are asking that the filing fee be waived, the clerk will:

- stamp "received" on your complaint (it cannot be marked "filed" until the judge agrees to waive the fee), and
- assign a case number and judge

The clerk will then send the paperwork to the judge, who will rule on whether or not to waive the fee. If the judge waives the fee, the clerk will then file-stamp your documents, sign the summonses and, if the judge orders, arrange for the complaint to be served on the defendants.

If the judge declines to waive the fee, the clerk will mail all of your paperwork back to you, with a letter saying that, if you would like the case filed, you will need to pay the filing fee.

How Do I Fill Out the Civil Cover Sheet?

The **Civil Cover Sheet** asks some statistical information about your case. It looks much more complicated than it is, because of all the options you can check off. It is broken down into eight sections:

Section I - Plaintiffs/Defendants

- a. asks the name of the plaintiff and the defendant.
- b. asks for the counties where the parties are located. We need to know this in order to help us assign the case to the right office.
- c. asks for the name, address and telephone number of the attorney handling your case. Since you are acting as your own attorney, please indicate that information about you.

Section II - Basis of Jurisdiction, asks why you are filing this case in U.S. District Court. There are only four reasons, as outlined on page one of this booklet. Please indicate the one item that best says why your case is being filed in federal court.

Section III - Citizenship of Principal Parties, is used *only if you indicated "Diversity" in Section II*. Pick one box that says where the plaintiff is located and one box to show where the defendant is located.

Section IV - Nature of Suit, says very generally what your case is about. Please check one box only.

Section V - Origin, gives 7 options. You will most likely choose option one, "original proceeding." That means that you are filing a new lawsuit. The other options are easy to understand.

Section VI - Cause of Action, asks for a brief statement telling us what your case is about. Something like, "I am suing my employer for violating my civil rights for not promoting me." You can ignore the part that asks you to cite a civil statute.

Section VII is pretty easy to understand. Put down the dollar amount you requested in the complaint, and check if you demanded a jury.

Section VIII asks if there are any related cases. If you sued the same defendants in this or any other court, write down the name of the Judge and the case number. Please date and sign the form where it says, "Signature of Attorney of Record."

The back of the form asks two questions about your case. If you have never sued these defendants before, the answer to both questions would be "no."

About Summonses

The summons form is pretty easy to fill out. Just remember that, in the box that asks for the name and address of the defendant being served, you can only put down one name - the party you are suing - and their address. If you are suing more than one person, each individual defendant gets his/her own summons. The Clerk's Office cannot issue summonses without this information.

Remember, each defendant gets his or her own summons. Do not indicate more than one party and address on a summons form. We should be able to look at your completed summons form and see exactly which party is going to receive it.

What Happens After My Case is Filed?

You need to let the people you are suing know that you are suing them. You do this by having the deputy clerk sign and seal a summons form. You then serve that form, along with a copy of your complaint, on the defendants. The rules say that you can mail the summons, or it can be served personally by anyone who is not a party and is at least 18 years old.

If the filing fee was waived, the Court may arrange for your defendants to be served.

Please remember that when you file documents in your case, you must send or bring **an original and a copy** of the document to the court. You will also need to serve your defendants.

If you are suing the United States Government:

The Federal Rules say that when you sue the U.S. Government, you will need to serve summonses on three separate parties. They are:

1. The head of the agency you are suing
2. The United States Attorney in Detroit
3. The United States Attorney General in Washington, D.C.

Even if you are suing a local government agency, you need to serve that office's headquarters, usually in Washington, D.C. For example, if you were injured at a local Post Office, you would actually serve the Postmaster General in Washington, D.C. **not** the local Post Office. In social security cases, the Regional Chief Counsel in Chicago is served instead of the Commissioner.

Your summonses should be directed to:

Office of the Attorney General
Department of Justice
10th & Pennsylvania Ave., N.W.
Washington, D.C. 20530

United States Attorney
211 W. Fort Street
Suite 2300
Detroit, MI 48226

The head of the federal agency that you are suing. Some frequently named defendants include:

Social Security Administration
Office of the Regional Chief Counsel, Region V
200 W. Adams Street, 30th Floor
Chicago, IL 60606-5208

U.S. Postmaster General
475 L'Enfant Plaza, S. W.
Washington, D.C. 20260-0010

Secretary, Department of Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20260-0010

If you need an address not shown here, assistance is available online at <http://www.usa.gov> or by calling the Federal Information Center at 1-800-FED-INFO (1-800-333-4636).